

**IN THE COURT OF APPEALS  
FIRST APPELLATE DISTRICT OF OHIO  
HAMILTON COUNTY, OHIO**

JAMES VAUGHN,	:	APPEAL NO. C-090245
	:	TRIAL NO. SP-0800412
Petitioner-Appellant,	:	
	:	<i>JUDGMENT ENTRY.</i>
vs.	:	
STATE OF OHIO,	:	
	:	
Respondent-Appellee.	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court.<sup>1</sup>

In 2004, petitioner-appellant James Vaughn pleaded guilty to and was convicted of rape. On February 11, 2004, Vaughn was sentenced to five years' incarceration and was designated a sexually-oriented offender. Under former R.C. Chapter 2950, Vaughn was required to annually register as a sexual offender for ten years.

In 2007, the General Assembly enacted Am.Sub.S.B. No. 10 ("Senate Bill 10") to implement the federal Adam Walsh Child Protection and Safety Act of 2006. Vaughn received a notice from the Ohio Attorney General stating that he had been reclassified under Senate Bill 10 as a Tier III sex offender and that he was required to register with the local sheriff every 90 days for life. On March 4, 2008, Vaughn filed an R.C.

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<sup>1</sup> See S.Ct.R.Rep.Op. 3(A), App.R. 11.1(E), and Loc.R. 12.

2950.032(E)<sup>2</sup> petition to contest his reclassification. The state filed a motion on July 23, 2008, requesting that Vaughn's petition be dismissed on the basis that the trial court had no jurisdiction to entertain the petition because Vaughn did not reside in and had not registered a school or place of employment in Hamilton County. At that time, Vaughn was incarcerated in the Warren County Correctional Institution. On July 25, 2008, the trial court entered an order dismissing Vaughn's petition.

On January 27, 2009, after he was released, Vaughn filed a motion for reconsideration of the trial court's July 25, 2008, order dismissing his petition. He also filed an R.C. 2950.11(F)(2) petition for relief from the community-notification provisions.

At the hearing on Vaughn's motion for reconsideration, the parties presented arguments as to the constitutionality of applying Senate Bill 10's tier-classification and registration requirements to Vaughn. On March 11, 2009, the trial court journalized an entry denying Vaughn's motion for reconsideration. Vaughn filed a notice of appeal on April 9, 2009, from the trial court's March 11, 2009, judgment. On appeal, Vaughn raises eight assignments of error challenging the constitutionality of Senate Bill 10.

"The Ohio Rules of Civil Procedure do not prescribe motions for reconsideration after a final judgment in the trial court."<sup>3</sup> A motion for reconsideration of a final appealable order is a nullity, and any judgment entered on such a motion is a nullity.<sup>4</sup>

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<sup>2</sup> The parties below referred to Vaughn's petition as an R.C. 2950.031(E) petition, but Vaughn's petition was properly filed under R.C. 2950.032(E).

<sup>3</sup> See *Pitts v. Ohio Dept. of Transportation* (1981), 67 Ohio St.2d 378, 423 N.E.2d 1105, paragraph one of the syllabus.

<sup>4</sup> See *id.*; *Fifth Third Bank v. Cooker Restaurant Corp.* (2000), 137 Ohio App.3d 329, 738 N.E.2d 817; *Cincinnati Gas & Electric Co. v. Sinkfield* (Apr. 8, 1987), 1st Dist. No. C-860323.

The 30-day period set forth in App.R. 4(A) for filing a notice of appeal from a judgment is not tolled by the filing of a motion for reconsideration.<sup>5</sup>

The trial court entered a final appealable order on July 25, 2008, dismissing Vaughn's petition. Pursuant to App.R. 4(A), Vaughn had 30 days to appeal from that judgment. He did not. Vaughn's motion for reconsideration and the trial court's entry denying it must be considered nullities. Therefore, Vaughn's April 9, 2009, notice of appeal was not timely filed.

This appeal is hereby dismissed.

Further, a certified copy of this judgment entry shall constitute the mandate, which shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

**CUNNINGHAM, P.J., DINKELACKER and MALLORY, JJ.**

*To the Clerk:*

Enter upon the Journal of the Court on February 17, 2010  
per order of the Court \_\_\_\_\_.  
Presiding Judge

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<sup>5</sup> See *Kauder v. Kauder* (1974), 38 Ohio St.2d 265, 313 N.E.2d 797; *In re Estate of Nussbaum* (July 21, 2000), 1st Dist. No. C-990527